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DATE: October 28, 2008

PTO IDENTIFIER: Application Number 10/559,543
Patent Number

Inventor: Rother et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: ROPES & GRAY LLP

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PAGES (Including Cover Sheet): 3

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Dated:

10/28/08

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Andrea Borden

(Andrea Borden)

Docket No.: ALXN-P01-106
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Rother et al.

Application No.: 10/559,543

Confirmation No.: 1138

Filed: February 26, 2007

Art Unit: 1644

For: DE-IMMUNIZED ANTI-CD3 ANTIBODY

Examiner: Schwadron, Ronald B.

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This reply is filed in response to the Restriction Requirement set forth in the Office Action mailed on September 30, 2008. Applicants disagree that the pending claims are not so linked as to form a single general inventive concept under PCT Rule 13.1 and maintain that restriction is not required under 35 U.S.C. 121 and 372. However, Applicants hereby elect, *with traverse*, Group I (claims 1-3, 7-9, and 20), directed to deimmunized antibodies and compositions thereof, and further elect, *with traverse* and for search purposes only, the antibody consisting of a heavy chain of SEQ ID NO: 17 and a light chain of SEQ ID NO: 20. The pending claims of Group I (claims 1-3, 7-9, and 20) read on the elected species.

Applicants traverse the Restriction Requirement on the grounds that Groups I-V, as identified by the Examiner, are closely related, and simultaneous search or simultaneous examination of all the pending claims will not impose substantial additional burden on the Examiner. Groups I-V all relate to de-immunized anti-CD3 antibodies, either compositions, methods of making, or methods of using the compositions. "If the search and examination of an

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Application No. 10/559,543
Amendment dated October 28, 2008
Reply to Restriction Requirement of September 30, 2008

Docket No.: ALXN-P01-106

entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (emphasis added, MPEP 803).
Reconsideration and withdrawal of restriction requirement are respectfully requested.

Finally, Applicants note that the Examiner has acknowledged restriction between product and process claims. Applicants have hereby elected product claims. Upon allowance of the product claims, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claims should be rejoined in accordance with the provisions of MPEP 821.04.

The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition therefore and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**, under Order No. ALXN-P01-106 from which the undersigned is authorized to draw.

Dated: October 28, 2008

Respectfully submitted,

By 
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